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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Written statement*/ submitted by Human Rights Watch,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[5 January 2001]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

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This session takes places at an extremely difficult moment for Colombia and its people, and demands the increased attention and resources of the Commission on Human Rights. Continuing a disturbing trend from 1999, the average number of victims of political violence and deaths in combat has risen from twelve to fourteen per day. Over 228,000 people were displaced in 2000. Of that number, 93,000 were forced to flee between July and September alone, the result of a record fifty-three massacres, most committed by paramilitary groups operating with the tolerance or open support of the armed forces.

Guerrillas also committed a rising number of violations of international humanitarian law, among them killings, the taking of hostages, and the recruitment of children. In dozens of attacks, the Revolutionary Armed Forces of Colombia employed methods that caused avoidable civilian casualties in violation of international humanitarian law. For their part, Camilist Union-National Liberation Army guerrillas continued attacks on oil pipelines and power pylons, and for prolonged periods prevented transit on vital roads, converting thousands of detained travelers into human shields.

Human rights defenders, community leaders, trade unionists and journalists continued to face threats and attacks. During the first ten months of 2000, four human rights defenders were killed and three "disappeared." Association of Family Members of the Detained and Disappeared members Angel Quintero and Claudia Patricia Monsalve were "disappeared" in Medellín, Antioquia, on October 6. Since, the group reports constant telephone threats, among them one where a woman could be heard weeping and begging for help as if she were being tortured. The Barrancabermeja-based Regional Corporation for the Defense of Human Rights also received dozens of telephone death threats from August through September. In key areas of the country, human rights monitoring has virtually stopped due to these kinds of threats.

During her December visit, U.N. High Commissioner for Human Rights Mary Robinson made a point of calling on the government to do more against paramilitary groups, which continue to operate virtually unimpeded and often count on the cooperation and direct collaboration of the Colombian military.

High ranking officers against whom there is credible evidence of ties to paramilitary groups not only remain in command, but have been promoted. Our evidence strongly suggests that in fact, military officers remain on active duty despite formal charges as a matter of course, and these cases are not the exception, but the rule. The number of state agents named in human rights-related cases remains significant. Of the 1,419 people currently under investigation by the Attorney General, over 20 percent are members of the armed forces. This is only slightly less than the number of guerrillas investigated for international humanitarian law violations. By the Colombian government's own admission, most of the 388 individuals dismissed in October 2000 were let go for reasons unrelated to human rights. To our knowledge, none of the soldiers dismissed has since been arrested or is facing trial.

Many paramilitary bases remained fixed and well known, yet authorities did little or nothing to

dismantle the bases, prevent them from being used to commit crimes, or arrest those responsible. One of the most well-known paramilitary bases in Colombia is less than ten minutes' drive from the center of Puerto Asís, Putumayo. Although this base has been active for almost one year, local authorities said there has been no attempt by the government to shut it down.

Paramilitary activity increased in 2000 and paramilitary groups were considered responsible for ninety-three massacres in the first five months of the year. In Nueva Venecia, Magdalena, paramilitaries are believed to have killed at least thirty-eight people on November 22, 2000. In areas of long-standing paramilitary presence, reliable and abundant information shows that the security forces continued to allow paramilitary operations with little or no evidence of actions taken to curtail such activity. In the Urabá region, for example, paramilitary groups continue to operate openly in heavily militarized zones.

There has been virtually no attempt on the part of the Colombian government to implement recommendations made by the U.N. Among them, the government has failed to enforce laws governing jurisdiction over human rights crimes and continues to allow the armed forces to adjudicate cases involving allegations of serious human rights violations, in defiance of the clear intent of Constitutional Court Sentence No. C-358/97 to exclude these cases from the military tribunals.

In a welcome decision, on July 21, 2000, the Superior Judicial Council returned a case involving the forced disappearance of Nydia Erika Bautista to civilian courts for trial. For the first time, the CSJ fully embraced Sentence No. C-358/97 and established a crucial precedent. Unfortunately, this precedent has yet to be acted upon by the armed forces. So far, military judges have refused to transfer key cases back to civilian courts for trial.

A military penal code reform gave the military new powers to dismiss officers against whom there is credible evidence of crimes against humanity, including genocide, torture, and forced disappearance. However, the reform left out the crimes most often alleged to have been committed by members of Colombia's Armed Forces are not specifically excluded from military jurisdiction by the Military Penal Code, among them extrajudicial execution, rape and aiding and abetting the atrocities carried out by paramilitary groups.

The Ministry of Defense has reported that 80 per cent of the arrest warrants issued by the Attorney General against paramilitaries have not been enforced. This is largely due to inaction by the military. At this writing, there are at least 22 outstanding arrest warrants against Carlos Castaño, the main paramilitary leader.

Since the Attorney General's Human Rights Unit began work in 1995, dozens of prosecutors have been forced to either abandon these cases, leave the institution, or go into exile because of threats from active-duty officers and paramilitaries. Far from demonstrating greater willingness to cooperate with civilian judicial officials, we continue to receive evidence that these investigators are routinely prevented from gaining access to relevant information, implicated

military personnel and official records. Moreover, the Attorney General reported in September that budget cuts implemented by President Pastrana are "dramatic" and threaten to "paralyze" the work of the Human Rights Unit.

In December 2000, President Pastrana announced that he intends to propose constitutional changes which would reinstate powers previously granted to the armed forces, but abolished by the 1991 Constitution. Of particular concern is that, in conjunction with these increased powers, Pastrana proposes by constitutional reform to introduce a "special procedure" in the *Procuraduría* for investigations of armed forces' personnel for acts which take place during anti-kidnaping and anti-terrorism operations. The "special procedure" would relax *Procuraduría* oversight and disciplinary function. We interpret Pastrana's proposal as a disturbing sign that civilian investigators will receive fewer, not greater guarantees for their work even as the armed forces, which have yet to reform, may gain dangerous new powers.

We urge the Commission on Human Rights to press for a dramatic expansion of the work in Colombia of the Office of the High Commissioner by increasing the number of permanent staff in the country and establishing satellite offices in areas where Colombian defenders can no longer operate, including the departments of Putumayo, Cauca, Valle, Bolívar, Norte de Santander, Magdalena, Meta and Cesar. Donor countries should increase their financial support and establish a budget that allows for frequent travel. Additionally, we urge the High Commissioner to renegotiate the mandate of the Office of the High Commissioner in Colombia to include the power to transmit information on cases to international and non-governmental organizations and the press as appropriate. The Office should have the power to release statements summarizing its investigations of the available evidence on a case by case basis.